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Proposals and contributions received from Governments

Argentina: proposed elements for inclusion in the draft United Nations Convention against Corruption

1. The Government of Argentina considers that, in view of the complex nature of corruption, particular importance should be given both to preventive strategies and to measures to punish corrupt practices. In that respect, the diversity of the ways in which corruption manifests itself should lead countries to consider incorporating systems and mechanisms that make it possible to exercise adequate control over public management and decision-making.

2. Within the list of preventive measures and strategies, emphasis should be placed on those which facilitate access to information, increase transparency in government decisions and qualitatively improve the processes that involve government spending, in particular public contracting, and make it possible to establish precise guidelines for ensuring that the public sector is not subjugated to private interests, as occurs in cases of conflict of interests and other similar situations.

3. It should be pointed out that this is not an exhaustive list of measures, actions and strategies. On the other hand, many of these measures, actions and strategies and other alternatives have already been included in the Inter-American Convention against Corruption (see E/1996/99) and other international legal instruments.

4. Corrupt practices usually occur in systems with inappropriate levels of discretionary authority, lack of transparency in decision-making processes and weak institutional controls. The purpose of the aforementioned measures and strategies is to address those shortcomings by reasonably curtailing the discretionary authority of public officials, increasing transparency in the decision-making process through the explanation of proposed legislative acts and creating institutions that permit monitoring by society at large.

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5. In considering those ideas, Argentina would particularly like to include the elements below in the text of the future United Nations Convention against Corruption:

1. Establishment of systems that improve public access to information on acts of State

6. Citizens' access to information is an indispensable part of the monitoring of public acts. In that regard, there should be a system of broad and easy access to information.

International instruments that contain provisions relating to this point:

Final Declaration of the Global Forum on Fighting Corruption and Safeguarding Integrity II, held in The Hague from 28 to 31 May 2001 (para. 11).

2. Implementation of mechanisms that increase transparency in government decision-making

7. Argentina proposes the incorporation of decision-making mechanisms that allow for the participation of interested parties, the general public, non-governmental organizations and other sectoral entities, through systems that provide for consultations and discussions on draft decisions with a view to increasing the democratic nature of administrative decisions.

International instruments that contain provisions relating to this point:

Resolution (97) 24 of the Council of Europe on the Twenty Guiding Principles for the Fight against Corruption (para. 9).

3. Establishment of systems to monitor funds that the public sector allocates to political organizations, civic associations, foundations or other non-public persons

8. The principal financial source of state assistance to private entities is the taxes paid by citizens and a fundamental question in that regard is the possibility of monitoring the allocation and use of such funds.

International instruments that contain provisions relating to this point:

(a) Resolution (97) 24 of the Council of Europe on the Twenty Guiding Principles for the Fight Against Corruption (para. 15);

(b) Final Declaration of the Global Forum on Fighting Corruption and Safeguarding Integrity II (para. 12).

4. Implementation of systems to improve transparency and the appropriate use of public funds in public contracting

9. Argentina is in favour of creating mechanisms that permit the broad participation of market players in contracting processes. The systems should function from the various stages of preparing the bidding documents up to the selection of a contractor. In the contracting process, priority must be given to adequate publicity in order to ensure the widest possible competition in the bidding.

International instruments that contain provisions relating to this point:

(a) Inter-American Convention against Corruption (art. III);

(b) Resolution (97) 24 of the Council of Europe on the Twenty Guiding Principles for the Fight against Corruption (para. 15).

5. Implementation of mechanisms to identify and prevent conflicts of interests among public officials

10. One of the principal concerns in the current stage of the fight against corruption should be to ensure adequate separation between the public and private spheres. Conflicts of interest result from the failure to differentiate between those two areas. In general, a conflict of interest occurs when, as a result of a decision taken by a public official, that official acquires an undue economic or financial benefit. It is the overlapping of the official's public functions with his private interests.

11. In order to ensure adequate preventive monitoring in that area, public officials should declare any commercial, economic and/or financial interests that might lead to conflicts of interest in the exercise of their official duties. In addition, legislation will have to provide adequate solutions to diverse cases and offer practical and effective remedies.

12. Such provisions should include the entire performance of the official during the exercise of his duties and should also take account of the relations that might arise once the public official has terminated his functions.

International instruments that contain provisions relating to this point:

(a) International Code of Conduct for Public Officials, sect. II (General Assembly resolution 51/59, annex);

(b) Inter-American Convention against Corruption (art. III);

(c) Recommendation of the Council of the Organisation for Economic Cooperation and Development of 23 April 1998, entitled "Improving Ethical Conduct in the Public Service".

6. System of sworn statements by public officials

13. One means of facilitating policies for preventing conflicts of interests, inconsistencies and possible illicit enrichment is to adopt a system of sworn

statements to be made by public officials. Such instruments should contain the information necessary to determine both changes in the official's economic status and a description of his or her interests in order to assess possible conflicts with his or her public functions.

International instruments that contain provisions relating to this point:

(a) International Code of Conduct for Public Officials, sect. III (General Assembly resolution 51/59, annex);

(b) Inter-American Convention against Corruption (art. III).

7. Follow-up mechanism

14. Bearing in mind the multilateral monitoring mechanism, Argentina believes that it is advisable to consider the possibility of developing a mechanism to follow up the implementation of the future convention. The mechanism, without prejudice to other components that may guarantee its effective operation, should adopt a system of indicators that objectively demonstrate progress made by States through measures, actions, policies or strategies in the field of transparency, governance and accountability.